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10/613,409

07/03/2003

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7590 05/23/2007  
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EXAMINER

CHIMIAK, EMILY ANN

ART UNIT

PAPER NUMBER

1733

MAIL DATE

DELIVERY MODE

05/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/613,409

Applicant(s)

GOOD ET AL.

Examiner

Emily Chimiak

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02/26/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 12, 13 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 12, 13 and 22-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/27/2007.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/26/2007 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 8, 10, 12, 13, 22-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Mehaff et al. (EP 0934990A1).

Claims 1-3, 8, 10, 12 and 13 are rejected for the same reasons as set forth in section 2 of the office action dated January 25, 2006. As to claim 22, Mehaffy et al. discloses an adhesive wherein the bonded heat stress value and the adhesive temperature are separate by 90F or less ([0033]). As to claims 23-24, Mehaffy et al. discloses an adhesive which has an application viscosity of between about 800 cps and 1500 cps (Table 1). As to claim 25, Mehaffy et al. discloses an adhesive comprising an ethylene n-butyl acrylate copolymer ([0021]). As to claim 27, Mehaffy et al. discloses an adhesive comprising 20 wt % of an ethylene n-butyl acrylate copolymer and 10 wt % of an ethylene vinyl acetate copolymer ([0025] and [0026]).

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 5, 26 and 27 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mehaffy et al.

Claim 5 is rejected for the same reasons as set forth in section 4 of the office action dated January 25, 2006. As to claim 26, the claim is a combination of claims 2, 4, and 5, and Mehaffy meets the limitations for the reasons discussed in section 4 of the office action dated January 25, 2006. As to claim 27, Mehaffy et al. discloses 20 wt % of an ethylene n-butyl acrylate copolymer and 10 wt % of an ethylene vinyl acetate copolymer [0025] line 16 and [0026] lines 36-37).

7. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehaffy et al. for the same reasons as set forth in section 5 of the office action dated January 25, 2006.

8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehaffy et al. as applied above, and further in view of Baetzold et al. '913 for the same reasons as set forth in section 6 of the office action dated January 25, 2006.

*Response to Arguments*

9. Applicant's arguments filed February 26, 2006 have been fully considered but they are not persuasive. As to the argument that [0033] and Table I demonstrate the heat stress values when the adhesive is applied at 250°C, while it is true that the 115°F is found in Table 1 along with the peel and shear strengths for an adhesive, and the adhesive for the peel and shear strengths was applied at 250°F [0029], there is no disclosure that the adhesive was also applied at 250°F for the heat stress value test. On the contrary, [0033] recites that adhesives applied at temperature of 200 to 300 °F “can maintain a cantilever stress load of 2 to 2.5 psi for 24 hours at temperatures at or above 115°F” and Kauffmann et al. (US 4956207) teaches that hot melt adhesives for case and carton sealing cannot have a heat stress value of less than 115°F (abstract and col. 5 lines 62-63). It is noted that the adhesive disclosed by Mehaffney are particularly useful for primary case and carton sealing ([0034]).

As to the argument that the composition Mehaffy does not disclose the same adhesive composition as the instant application as discussed in section 4 of the office action dated January 25, 2006, please refer to section 6 of the nonfinal rejection of January 25, 2006 for a comparison of the adhesive composition disclosed by Mehaffy and the instant application. Because the compositions are the same, the adhesive in the reference is expected to behave identically to that disclosed by applicant.

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As to the argument regarding Baetzold et al., it is noted that Baetzold et al. does not teach an adhesive with the heat stress and application value disclosed by Mehaffy, but it may modify the primary reference because both are hot melt adhesives and because Mehaffy discloses an adhesive used in packaging ([0034] in Mehaffy) and Baetzold et al. teaches a hot melt adhesive used in packaging applications (col. 2 lines 10-12).

### ***Conclusion***

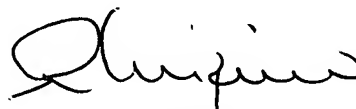
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Chimiak whose telephone number is (571)272-6486. The examiner can normally be reached on Monday-Friday 8:30-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)272-6486. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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